

Before the
Administrative Hearing Commission
State of Missouri



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JAN 16 1997

MISSOURI STATE COMMITTEE
OF PSYCHOLOGISTS

STATE COMMITTEE OF
PSYCHOLOGISTS,

Petitioner,

vs.

FRED HENRICHS, Ph.D.,

Respondent.

No. 96-002129PS

CONSENT ORDER

The licensing authority filed a complaint. Section 621.045, RSMo Supp. 1995, gives us jurisdiction.

On October 16, 1996, the parties filed a "Joint Stipulation of Facts, Waiver of Hearing Before the Administrative Hearing Commission and State Committee of Psychologists and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law." Our review of the document shows that the parties have stipulated to certain facts and waived their right to a hearing before us. We find that the facts stipulated are true. We conclude that the licensee is subject to discipline under section 337.035.2(5),(6),(13), and (15), RSMo, 1994. We incorporate the parties' proposed findings of fact and conclusions of law into this Consent Order under 1 CSR 15-2.450(1)(B). We certify the record to the licensing agency under section 621.110, RSMo 1994.

No statute authorizes us to determine whether the agency has complied with the provisions of section 621.045.3, cited above. This is consistent with the holding that we have no role in superintending agency compliance with statutory procedures. *Missouri Health Facilities Review Committee v. Administrative Hearing Commission*, 700 S.W.2d 445, 450 (Mo. banc 1985). Therefore, we do not determine whether the agency complied.

SO ORDERED on October 17, 1996.

A handwritten signature in dark ink, appearing to read "Sharon M. Busch", is written over a horizontal line.
SHARON M. BUSCH
Commissioner

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

STATE COMMITTEE OF PSYCHOLOGISTS,)
3605 Missouri Boulevard)
Jefferson City, Missouri 65102)

Petitioner,)

v.)

FRED HENRICHS, Ph.D.)
1319 Timber Terra Road)
Wildwood, Missouri 63021)

Respondent.)

No. 96-002129PS

FILED

OCT 16 1996

ADMINISTRATIVE HEARING
COMMISSION

RECEIVED

JAN 18 1997

MISSOURI STATE COMMITTEE
OF PSYCHOLOGISTS

**JOINT STIPULATION OF FACTS, WAIVER OF HEARING
BEFORE THE ADMINISTRATIVE HEARING COMMISSION AND
STATE COMMITTEE OF PSYCHOLOGISTS AND CONSENT ORDER
WITH JOINT PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Pursuant to the rules governing practice and procedure before the Administrative Hearing Commission (1 CSR 15-2.450(1)) and pursuant to the terms of §536.060, RSMo 1994, as it is made applicable to the Administrative Hearing Commission by §621.135, RSMo 1994, the parties waive the right to a hearing of the above-styled case by the Administrative Hearing Commission of the State of Missouri and, additionally, the right to a disciplinary hearing before the State Committee of Psychologists under §621.135, RSMo 1994, and jointly stipulate to the facts and consent to the imposition of disciplinary action against the psychologists license of Respondent for violations of statutes set forth below.

Respondent acknowledges that he has received and reviewed a copy of the Complaint filed by the State Committee of Psychologists in this case and the parties submit to the

jurisdiction of the Administrative Hearing Commission.

The Respondent acknowledges that he is aware of the various rights and privileges afforded him by law, including the right to appear and be represented by counsel; the right to have a copy of the complaint served upon him by the Administrative Hearing Commission prior to the entering of its order; the right to have all charges against Respondent proven upon the record by competent and substantial evidence; the right to cross-examine any witness appearing at the hearing against Respondent; the right to present evidence on Respondent's own behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the complaint pending against Respondent; and the right to a ruling on questions of law by an administrative hearing commissioner. Being aware of these rights provided the Respondent by operation of law, the Respondent, Fred Henrichs, knowingly and voluntarily waives each and every one of these rights and freely enters into this Joint Stipulation of Facts, Waiver of Hearing Before the Administrative Hearing Commission and State Committee of Psychologists and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law and agrees to abide by the terms of this document as they pertain to Respondent.

I

Based upon the foregoing, the Petitioner and the Respondent jointly stipulate to the following and request that the Administrative Hearing Commission adopt as its own the Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law as the Administrative Hearing Commission's Findings of Fact and Conclusions of Law:

JOINT PROPOSED FINDINGS OF FACT

1. The State Committee of Psychologists (the "Committee") is an agency of the State of Missouri created and established pursuant to §337.050, RSMo 1994, for the purpose of executing and enforcing the provisions of Chapter 337, RSMo.
2. Fred Henrichs, Ph.D., Respondent, is licensed by the Committee as a psychologist, License No. PY00982. The Respondent's Missouri license is current and active.
3. Beginning on or about September 10, 1992, Respondent provided psychological treatment to a Patient A.B. for issues related to incest, marital difficulties and depression.
4. Respondent provided psychological treatment to Patient A.B. until March or April 1993.
5. From September 10, 1992 until March or April 1993, Patient A.B. paid Respondent for psychological services.
6. Subsequent to September 10, 1992 and during the course of treatment, Respondent and Patient A.B. engaged in a sexual relationship which included sexual intercourse, kissing, sexual comments and gestures, and physical contact of a sexual nature.
7. Subsequent to September 10, 1992 Respondent dined socially with Patient A.B.
8. Subsequent to September 10, 1992 and during the course of treatment, Respondent and Patient A.B. exchanged personal telephone calls and gifts.
9. On or about June 27, 1994, Respondent met Patient A.B. in a restaurant parking lot and terminated the sexual relationship. At that time, Respondent provided Patient A.B. with a list of local counseling agencies which she could contact for treatment.
10. Respondent failed to terminate his professional relationship with Patient A.B.

in an appropriate manner.

11. Respondent's conduct of engaging in a sexual relationship with Patient A.B. violated a professional trust or confidence due Patient A.B.

12. Respondent's conduct as set forth herein, violates §337.035.2(5),(6),(13) and (15), RSMo, 1994 which provide:

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any one or any combination of the following causes:

....

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

....

(13) Violation of any professional trust or confidence;

....

(15) Being guilty of unethical conduct as defined in "Ethical Rules of Conduct" as adopted by the committee and filed with the secretary of state.

13. Respondent engaged in a dual relationship with Patient A.B.

14. 4 CSR 235-5.030(1)(A)(B)(C)(D) and (E) provide:

(1) General Principles.

(A) Purpose. The ethical rules of conduct constitute the standards against which the required professional conduct of a psychologist is

measured.

(B) Scope. The psychologist shall be governed by these ethical rules of conduct whenever providing psychological services in any context. These ethical rules of conduct shall apply to the conduct of all licensees and applicants, including the applicant's conduct during the period of education, training and employment which is required for licensure. The term psychologist, as used within these ethical rules of conduct, shall be interpreted accordingly whenever psychological services are being provided in any context.

(C) Responsibility for Own Actions. The psychologist, when functioning as a licensed psychologist, shall be fully responsible for his/her own professional decisions and professional actions.

(D) Violations. A violation of these ethical rules of conduct constitutes unprofessional conduct and is sufficient reason for disciplinary action or denial of either original licensure, reinstatement or renewal of licensure.

(E) Aids to Interpretation. The *Ethical Principles of Psychologists, Standards of Providers of Psychological Services* and *Specialty Guidelines for the Delivery of Psychological Services* promulgated by the American Psychological Association shall be used as an aid in resolving ambiguities which may rise in the interpretation of the ethical rules of conduct, except that these ethical rules of conduct shall prevail whenever any conflict exists between these rules and any professional association standard.

....

15. Respondent's conduct as set forth herein violates 4 CSR 235-5.030 (4)(B), (4)(C)

1. A.B.C.D.E., (4)(C) 2., (4)(D), (5)(E), (9)(B)2. and (11)(A) which provide:

(4) Impaired Objectivity and Dual Relationships.

....

(B) Dual Relationship Affecting Psychologist's Judgment. The psychologist shall not undertake or continue a professional relationship with a client when the objectivity or competency of the psychologist is or could reasonably be expected to be impaired because of the psychologist's present or previous familial, social, sexual, emotional, financial, supervisory, political, administrative or legal relationship with the client or a relevant person associated with or related to the client. If that dual relationship develops or is discovered after the professional relationship has been initiated, the psychologist shall terminate the professional relationship in an appropriate manner, shall notify the client in writing of this termination and shall assist the client in obtaining services from another professional.

(C) Prohibited Dual Relationship.

1. The psychologist, in interacting with any current client or with a person to whom the psychologist at any time within the previous sixty (60) months has rendered counseling, psychotherapeutic or other professional psychological services for the treatment or amelioration of emotional distress or behavioral inadequacy, shall not—

A. Engage in sexual intercourse, which includes any genital contact of the psychologist with the client or the client with the psychologist. This specifically prohibits sexual intercourse, sodomy—oral and/or anal copulation; or any penetration of the anal opening by any one (1) part or object;

B. Engage in kissing with the mouth, lips or tongue of the psychologist with the client or the client with the psychologist;

C. Touching or caressing by either the psychologist or client of the other person's breasts, genitals or buttocks;

D. Engage in any deliberate or repeated comments, gestures or physical contact of a sexual nature that exploits the professional relationship with that person;

E. Terminate a therapeutic relationship with a client or student for the purpose, expressed or implied, of having a sexual relationship with that person; . . .

. . . .

2. The psychologist, in interacting with any current client or with a client to whom the psychologist has at anytime within the previous twenty-four (24) months rendered counseling, psychotherapeutic or other professional psychological services for the treatment of amelioration or emotional distress or behavioral inadequacy, shall not enter into a financial or other potentially exploitative relationship with him/her/them.

(D) Prohibited Exploitation in Professional Relationships. The psychologist shall not exploit, sexually or otherwise, his/her professional relationship with clients, supervisees, students, employees, research participants or others.

(5) Client Welfare.

. . . .

(E) Sexual or Other Dual Relations With a Client. The psychologist shall not enter into a sexual or other dual relationship with a client, as specified in subsections (4)(B) and (C) of these ethical rules of conduct.

....

(11) Violations of Law.

(A) Violations of Applicable Statutes. The psychologist shall not violate any applicable statute or administrative rule regarding the practice of psychology.

....

II

DISCIPLINARY ORDER

In light of the foregoing stipulation of facts, Respondent and the Committee hereby consent and agree to the following disciplinary action to be imposed against License No. PY00982 effective the date the Administrative Hearing Commission enters its order. The license of Fred Henrichs, numbered PY00982, to practice psychology is hereby REVOKED. The revocation shall be stayed, and Respondent's license shall be SUSPENDED for a period of two (2) years. Immediately following the period of suspension, Respondent's license shall be placed on PROBATION for a period of three (3) years. The following terms and conditions shall apply throughout the periods of suspension and probation.

- A. Respondent shall submit all copies and originals of Respondent's psychologist license, wallhanging, wallet certificate and all other indicia of licensure to the State Committee of Psychologists within thirty (30) days of the effective date of this Order to be held during the period of suspension.
- B. During the period of suspension, Respondent shall not engage in the practice

of psychology as defined in Section 337.015 R.S.Mo., except in the following specific areas:

- 1) consulting services provided to the Missouri Disability Determination Service;
 - 2) consulting services provided to the St. Louis Regional Center under the Missouri Department of Health;
 - 3) consulting services provided to the St. Charles County Law Enforcement Training Center;
 - 4) consulting services provided to the local and municipal police departments, which includes administering tests and interviewing job applications; and
 - 5) any additional consulting activities, with prior approval of the State Committee of Psychologists.
- C. Respondent may, after completing a mandatory initial evaluation and providing a copy of the written treatment evaluation to the Committee, petition the Committee to waive the period of suspension and to allow Respondent to immediately begin the period of probation. However, the Committee may, at its discretion, deny Respondent's request for waiver of the period of suspension.
- D. At Respondent's expense, Respondent must undergo an evaluation to assess current functioning and effects of such functioning on Respondent's ability to practice, such evaluation shall be conducted by a psychologist approved by the State Committee of Psychologists. Within twenty (20) business days of the

effective date of this Joint Stipulation, Respondent shall submit a list of no less than five (5) proposed psychologists to conduct the evaluation. The Committee may approve a psychologist from this list, or may require a second list of five (5) psychologists which the Respondent shall submit within twenty (20) business days of the Committee's request. The Respondent must begin the evaluation within thirty (30) days of the Committee's approval. The Respondent must immediately notify the Committee, in writing, of the start date of the evaluation.

- E. The written evaluation must be submitted by the evaluating psychologist to the State Committee of Psychologists within thirty (30) days of the evaluation being initiated. It shall be Respondent's responsibility to ensure that the evaluation is submitted by the evaluating psychologist to the State Committee of Psychologists.
- F. The evaluating psychologist shall be released to discuss the purpose and methods of the evaluation with a representative of the State Committee of Psychologists prior to performing the evaluation. The evaluation will be pursuant to consultation with the State Committee of Psychologists. While Respondent will pay for the evaluation, the evaluating psychologists will work on behalf of the State Committee of Psychologists.
- G. Respondent shall abide by the recommendations of the evaluating psychologist set forth in the psychological evaluation. Respondent shall engage in all psychological testing, evaluation, supervision, therapy or other treatment

recommended. If therapy is deemed appropriate, the treating psychologist must be different from the psychologist performing the evaluation and must be approved by the State Committee of Psychologists. Respondent shall commence any recommended therapy or treatment within twenty (20) business days of the evaluation completion date.

- H. If therapy is deemed appropriate, it must be continued according to the frequency of sessions recommended by the evaluating psychologist. The treatment modality or plan shall reflect issues and themes recommended by the evaluating psychologist as well as any additional treatment goals. Ongoing treatment and documentation should address the evaluating psychologist's recommendation.
- I. In the event the treating psychologist becomes unable or decides not to continue serving in his/her capacity as a treating psychologist or otherwise ceases to serve as a treating psychologist during the disciplinary period, then, the Respondent shall:
 - a) within three (3) business days of being notified of the treating psychologist's inability or decision not to continue serving as the treating psychologist, or otherwise learning of the need to secure a treating psychologist, advise the State Committee in writing that he/she is needing to secure a treating psychologist and the reasons for such change; and
 - b) within twenty (20) business days of being notified of the treating

psychologist's inability or decision not to continue serving as the treating psychologist, or otherwise learning of the need to secure a treating psychologist, secure a treating psychologist pursuant to and in accordance with the terms and conditions set forth in this Joint Stipulation.

- J. Respondent must give the State Committee of Psychologists or its representative permission to review Respondent's treatment and/or medical records.
- K. Respondent's treating psychologist must report every six (6) months to the State Committee of Psychologists on Respondent's progress. It is Respondent's responsibility to ensure that these reports are provided in a timely manner.
- L. During the disciplinary period, the scope and nature of Respondent's practice as a professional psychologist will be under review of the State Committee of Psychologists. Respondent may not work in settings that increase Respondent's risk for sexual misconduct. Respondent's work setting must be approved by the State Committee of Psychologists.
- M. Within one (1) year of the entry date of this Joint Stipulation, Respondent must complete a professional education course on the topic of professional ethics approved by the State Committee of Psychologists. Such course must be taken in a department of psychology from a regionally accredited university for three (3) hours of graduate credit or a continuing education course on such topic as approved by the State Committee of Psychologist for no less than forty-five (45) CEU credits. The Respondent must obtain a grade of B or higher in the course.

Reading courses, correspondence courses or independent study courses are unacceptable.

- N. During the probationary period, Respondent must inform Respondent's worksite supervisor, employers, and all hospitals, institutions, and managed health care organizations with which Respondent is affiliated, that Respondent's work as a professional psychologist is under probation by the State Committee of Psychologists.
- O. During the probationary period, Respondent's practice as a professional psychologist shall be supervised on a weekly basis by a psychologist approved by the State Committee of Psychologists, if Respondent engages in the practice of psychology in areas other than those specified in Section B above. If Respondent limits during the probationary period his practice of psychology to those specific areas listed in Section B above, then the requirements set forth in Sections O through S shall be inapplicable and shall not be enforced. Respondent shall be responsible for any payment associated with the supervision. Supervision includes, but is not limited to, weekly on sight face-to-face review of cases, and review of written reports such as case notes, intake assessments, test reports, treatment plans, and progress reports.
- P. In the event the supervising psychologist becomes unable or decides not to continue serving in his/her capacity as a supervising psychologist or otherwise ceases to serve as a supervising psychologist during the period of probation, then, the Respondent shall:

a) within three (3) business days of being notified of the supervising psychologist's inability or decision not to continue serving as the supervising psychologist, or otherwise learning of the need to secure a supervising psychologist, advise the State Committee of Psychologists, in writing that he/she is needing to secure a supervising psychologist and the reasons for such change; and

b) within twenty (20) business days of being notified of the supervising psychologist's inability or decision not to continue serving as the supervising psychologist, or otherwise learning of the need to secure a supervising psychologist, secure a supervising psychologist pursuant to and in accordance with the terms and conditions set forth in this Joint Stipulation. After twenty (20) business days, the Respondent shall not practice if he or she has not secured a supervisor.

- Q. The supervising psychologist shall be vested with administrative authority over all matters affecting the provision of psychological health services provided by Respondent.
- R. Respondent's supervisor must report every six (6) months on Respondent's compliance with this Joint Stipulation.
- S. During the probationary period, Respondent shall follow the written recommendation of his supervisor with regard to the provision of clinical services. Respondent shall obtain the written consent of his supervisor prior to engaging in clinical practice and shall provide a copy of such written consent

to the Committee at least ten (10) business days prior to performing clinical psychological services.

- T. During the disciplinary period, Respondent may not serve as a supervisor for any psychological trainee, psychological intern, psychological resident, psychological assistant, or any person undergoing supervision during the course of obtaining licensure as a psychologist, professional counselor, or social worker.
- U. Respondent must keep the State Committee of Psychologists apprised at all times, in writing, of Respondent's current home and work addresses and telephone numbers.
- V. Respondent is required to pay to the State Committee of Psychologists, in a timely fashion, all requisite fees required by law to renew and keep current Respondent's psychology license in Missouri.
- W. Respondent is required to comply with all provisions of Chapter 337, R.S.Mo., the rules and regulations duly promulgated by the State Committee of Psychologists and state and federal criminal laws.
- X. Respondent shall provide periodic reports of Respondent's compliance with this Joint Stipulation every six (6) months.
- Y. At Respondent's expense, Respondent agrees to meet with the State Committee of Psychologists at reasonable intervals designated by the Committee.
- Z. Upon the expiration of the disciplinary period, the Respondent's license as a psychologist in Missouri shall be fully restored, provided all provisions of this

Joint Stipulation and all other requirements of law have been satisfied.

AA. If the State Committee of Psychologists determines that the Respondent has violated a term or condition of his/her discipline, or has otherwise failed to comply with the provision of Chapter 337 R.S.Mo., which violation would be actionable in a proceeding before the State Committee of Psychologists or the Administrative Hearing Commission or a Circuit Court, the State Committee of Psychologists may elect to pursue any lawsuit remedies or procedures afforded to it, and is not bound by this Joint Stipulation in its selection of remedies concerning such violation.

BB. The parties to this Joint Stipulation understand that the State Committee of Psychologists will maintain this Joint Stipulation as an open record of the Committee as provided in Chapter 337, 610, and 620 R.S.Mo.

RESPONDENT

STATE COMMITTEE OF
PSYCHOLOGISTS

Fred E. Henrichs, Ph.D. 9/26/96
Fred Henrichs, Ph.D. Date

Mildred D. Robertson 10/10/96
Mildred Robertson Date
Executive Director

Philip L. Willman 9-26-96
Philip L. Willman Date
MOSER & MARSALEK, P.C.
200 North Broadway, Suite 700
St. Louis, Missouri 63102

Penney R. Rector 10/15/96
Penney R. Rector Date
Assistant Attorney General
Attorney for Petitioner